

July 27, 2018

The Honorable Ann Marie Buerkle, Acting Chairman
The Honorable Robert Adler, Commissioner
The Honorable Elliot Kaye, Commissioner
The Honorable Dana Baiocco, Commissioner
U.S. Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Acting Chairman Buerkle and Commissioners Adler, Kaye, and Baiocco:

The undersigned groups write regarding the U.S. Consumer Product Safety Commission's (CPSC) planned activities to address hazards in the marketplace. Our organizations support many elements of the agency's annual Operating Plan, and we write today to highlight several product safety hazards in particular as the end of the fiscal year approaches.

The CPSC is a critical agency with insufficient funding and staff to fully carry out its safety mission. Given the CPSC's limited resources, the CPSC must evaluate its work to ensure that it prioritizes projects that would have a clear and forceful impact and would help eliminate or substantially reduce product-related deaths and injuries.

All of the CPSC's work to protect the public from safety hazards is critically important. In this letter, our groups will highlight several issues and urge the agency to ensure that they remain a top priority for the Commission for the remainder of Fiscal Year (FY) 2018 and for FY 2019. Specifically, we strongly support the agency's important work as part of its Operating Plan to address safety hazards involving portable generators, furniture tip-overs, infant sleep, lithium-ion and coin cell batteries, all-terrain vehicles (ATVs), and magnet sets, as well as its work to improve the SaferProducts.gov consumer incident database.

Portable generators: We continue to support the implementation of a mandatory standard for portable generators to address the risk of carbon monoxide poisoning and other safety risks associated with the products. Such a standard would apply across the marketplace, make it easier to recall noncompliant products, and more effectively protect consumers. We appreciate the CPSC's ongoing support for important safety research related to portable generator safety and support the expansion of work overseen by the agency to evaluate the effectiveness of the ANSI/PGMA and UL standards, as well as the additional funding dedicated to this work through the FY 2018 Midyear Review. It is essential to independently evaluate how likely these voluntary industry standards are to eliminate or mitigate generator-related deaths, injuries, and illnesses, and to independently assess their adequacy under section 7(b) of the Consumer Product Safety Act. This work should help build toward what we advocate for consumers: a single, strong, enforceable standard that eliminates or significantly reduces deaths and injuries associated with these products.

Furniture tip-overs: We remain very concerned about injuries and deaths associated with tip-over incidents, particularly those involving dressers and other clothing storage unit

(CSU) furniture. Kids In Danger, Shane's Foundation, and Consumer Reports have conducted testing of furniture and have published articles with their findings. Collectively, this research has found that the voluntary industry standard ASTM F2057-17 is inadequate, and it is feasible for manufacturers to meet a significantly stronger standard that protects more children and addresses more CSUs. We appreciate the CPSC's consideration of comments responding to the November 2017 advance notice of proposed rulemaking (ANPR) and its allocation of extra funds to its tip-overs work through the Midyear Review. We urge the Commission to further prioritize work that directly relates to the establishment of strong, binding CSU performance requirements in a CPSC mandatory standard. We are aware of the delay of the ANPR from FY 2017 to FY 2018, and we urge support of staff working to strengthen the voluntary standard and complete a notice of proposed rulemaking addressing the risks associated with CSU furniture tip-overs. The need for a strong, mandatory standard is further highlighted by two events this spring, including: (1) the May 4 vote of ASTM Subcommittee F15.42 on Furniture Safety not to support sending out a ballot to approve increasing the ASTM voluntary standard's loaded stability test weight to 60 pounds; and (2) the follow-up statement, posted publicly by the American Home Furnishings Alliance on its website, clarifying that it refuses to acknowledge the inadequacy of this portion of the voluntary standard and that it has no plans to strengthen it.

Safe sleep: Our organizations support the two focus groups adopted through the Midyear Review to address infant sleep hazards, including by studying the perceived comfort of play yard mattresses and safe sleep messaging. Our groups support the petition requesting a ban on supplemental mattresses for play yards with non-rigid sides filed by Keeping Babies Safe in June 2015 and urges the Commission to act to reduce deaths and injuries associated with the use of this product. Critically, the Centers for Disease Control and Prevention has found that sleep related deaths in infants are growing, many of them due to unsafe sleep environments including additional padding, coverings, and bedding. CPSC should integrate the #BareIsBest message into more of its consumer communications to further alert parents to this easy-to-follow, lifesaving message.

Lithium-ion batteries: We support the CPSC's project in collaboration with the Department of the Navy to research internal short-detection technology to mitigate fire risks with lithium-ion batteries that are used in consumer products. The use of lithium-ion batteries in consumer products has grown exponentially in the past few years. Hoverboards, laptops, and smartphones are just three examples of consumer products using lithium-ion batteries. In 2015, there were eight battery-related recalls conducted by the CPSC, and in 2016, there were over twenty. Half of the lithium-ion batteries recalled in 2016 involved hoverboard and smartphone recalls due to fire hazards. We support the collaboration with the Navy, and the CPSC's additional work on lithium-ion batteries, and urge the Commission to build on that work to ensure the fire hazards posed by these batteries are addressed in every consumer product in which they are used.

Coin cell batteries: We support the CPSC's work to compare test procedures and child-panel testing under the Poison Prevention Packaging Act for coin cell battery packages. Coin cell batteries pose potentially fatal ingestion hazards to children. In January 2016, a two-year-old in Oklahoma died after swallowing a button cell battery.¹ According to the National Capital Poison

¹ <http://www.nydailynews.com/news/national/oklahoma-2-year-old-dies-ingesting-battery-article-1.2482468>

Center, every year more than 3,500 people ingest button batteries.² In addition, according to a study released in June 2012 in the American Academy of Pediatrics journal *Pediatrics*,³ from 1990 to 2009, an estimated 65,788 children under 18 years of age were injured by button cell batteries seriously enough to require emergency room treatment. We urge the CPSC to continue its work to strengthen the relevant voluntary standards to include a provision to enclose securely all coin cell batteries⁴ and to work in support of design changes that would eliminate the serious health hazard posed by ingestion.

All-terrain vehicles: We support the CPSC’s all-terrain vehicle work involving projects to test commercially available roll-over occupant protection devices as well as to design, develop prototypes, and test new occupant protection devices that would improve rider protection during an ATV roll-over event. We hope that these important projects will be used to support the timely completion of the CPSC’s ATV rule.

Magnet set market assessment: We support the CPSC’s work to conduct a market survey to evaluate the number of firms selling high-powered magnet sets and the number of magnet sets being sold to consumers, and to undertake an evaluation of in-depth investigations (IDIs) involving high-powered magnets. New rare earth magnet sets are entering the market and creating hidden hazards that could severely injure or even kill children who swallow more than one magnet. We urge that the CPSC take strong action to ensure that doctors and consumers are educated about this hazard and that the agency use the information collected to quickly finalize anew, strong magnet rule.

SaferProducts.gov: We support the provision added to the Operating Plan through the Midyear Review that directs CPSC staff to create a plan for updating and upgrading SaferProducts.gov. We urge the Commission to include this project in the FY 2019 Operating Plan to continue this work. We support that the plan will consider relevant stakeholder testimony from the April 2018 priorities hearing, and reports and recommendations from stakeholders and the Government Accountability Office. We further support that the updates to SaferProducts.gov will “include, among other things, enhancements to user experience such as making the website mobile-friendly, expansion and updating of data fields, and improvements to integration with CPSC’s internal data systems.”⁵ SaferProducts.gov is a useful tool that can be made even more useful with these suggested updates and upgrades.

Thank you for your consideration of our comments. We look forward to the timely completion of this work and the use of this work to support rulemaking and other concrete steps to substantially reduce product-related deaths and injuries.

² National Poison Center, Swallowed a Button Battery? Battery in the Nose or Ear? <http://www.poison.org/battery/>

³ Samantha J. Sharpe, BS, Lynne M. Rochette, PhD, and Gary A. Smith, MD, DrPH, Pediatric Battery-Related Emergency Department Visits in the United States, 1990–2009, *Pediatrics*, Volume 129, Number 6, June 2012 <http://pediatrics.aappublications.org/content/early/2012/05/09/peds.2011-0012>

⁴ Id.

⁵ Minutes of CPSC’s Commission Meeting, May 17, 2018, # 8. https://www.cpsc.gov/s3fs-public/Minutes%20of%20Commission%20Meeting%20-%20Decisional%20FY%202018%20Midyear%20Review%20and%20Proposed%20Operating%20Plan%20Adjustments%20051718.pdf?f3pfALCiMe6Jb_BY2z8OY7BKz4tqSRy

Sincerely,

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